

1 MR. SHOOK: You mean October 4.

2 BY MR. PRICE:

3 Q The October 4 -- I've been doing that for  
4 weeks now. The time you prepared the October 4, 1997  
5 memo for Mr. Sanchez that your original certification  
6 on the application had been incorrect?

7 A Yes. I think what I was telling Ernie is  
8 Ernie, it looks like I may have made a mistake,  
9 because I misunderstood the question in the  
10 application, and so this is my assessment today. And  
11 that's what I was telling him in this memo.

12 Q What did you mean by Correct with  
13 Explanation? Will correct with explanation?

14 A Today I don't know exactly what I meant by  
15 that. I understood that at this point that this  
16 looked like a serious legal issue. This was a letter  
17 from someone else's lawyer to our lawyer.

18 This was way above my degree of education  
19 and knowledge at this point and I was glad to have  
20 Ernie involved at this point. Significantly -- I saw  
21 my role as changing from being the guy who's in charge  
22 and telling others what to do to following the

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1 instructions of my lawyer.

2 I mean obviously when you know or when you  
3 think that you may have done something wrong or you  
4 may have made a mistake, especially on the order of  
5 this, you tell your lawyer and you do what your lawyer  
6 tells you to do.

7 So today I don't remember exactly what  
8 Will Correct With Explanation means. It doesn't sound  
9 like the kind of term that I would use.

10 Q Now did you have conversations with Mr.  
11 Sanchez in the period between when you received the  
12 fax on the 2nd of October '97, and the time you  
13 submitted to him your memorandum on the 4th of October  
14 '97?

15 A I believe so. When I looked at the log  
16 just a second ago I saw that there was another call  
17 the day before I sent this memo to Ernie so -- just  
18 putting the pieces together, before I sent this memo  
19 to Ernie, I would have talked to him.

20 Q After you sent the October 4 memo to Mr.  
21 Sanchez in which you, as you just stated a moment ago,  
22 acknowledge that you may have made some mistakes on

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1 the original certification, did you have any further  
2 conversation with Mr. Sanchez about the mistakes in  
3 the original certification?

4 A Well, looking at the phone log here, I had  
5 several conversations with him.

6 Q Why don't you start with each one and see  
7 if review of any of those refresh your recollection?

8 A Okay. Well there is the October 3 call,  
9 before sending in the memo. There's another call on  
10 October 6, and the summary is review fax which would  
11 have been this letter or this memo.

12 Q I think Mr. Shook walked you through that  
13 yesterday, that's actually not a phone call. Unless  
14 you know there was a call on the sixth, but it's not  
15 a phone call.

16 A Oh is it not a phone call? I can't tell.

17 Q But keep reading.

18 A On October 8 had another conference to  
19 discuss the points -- the second call on October 8 to  
20 review the points.

21 Q About how long was that phone call of  
22 October 8 to review -- to discuss review potential

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1 petition to deny points?

2 A Again if we're measuring in hour units,  
3 looks to be one hour and 20 minutes.

4 Q There's two listings on the page, looks  
5 like two different phone calls.

6 A Okay so -- two hours and 20 minutes. And  
7 then on October 17 it looks like he reviewed a fax  
8 that I sent him.

9 Q You indicated to Mr. Shook yesterday you  
10 don't have any recollection of preparing any what  
11 you'd characterize as inventory?

12 A Yes, I don't remember, I don't know what  
13 he's talking about. It looks like on October 22 Ernie  
14 Sanchez spoke with Enrique Palacios, I don't know  
15 about what. It says to discuss Golden Gate.

16 Q Let's just focus on the ones that refer to  
17 you. I don't want you to speculate on conversations  
18 with other folks.

19 A Moving to page three of the phone log, on  
20 October 30 there was another conference call about the  
21 petition to deny.

22 MR. SHOOK: You mean page four.

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1 THE WITNESS: Yes, I'm sorry, page four.  
2 On page four another call on November 4. About the  
3 petition to deny. Another call on November 11.  
4 There's a call on November 18.

5 BY MR. PRICE:

6 Q About how long was that call?

7 A One hour.

8 Q I apologize, I may have mischaracterized.  
9 The entire billing time was for one hour, is that  
10 correct? That may have been one of the things that  
11 happened.

12 A Yes, I mean, here under the description it  
13 says Review Draft Petition, call Mr. Ramirez, fax Mr.  
14 Palacios. Then on November 20, another call to  
15 discuss the Golden Gate Petition. Another call, a  
16 second call on November 20, an hour and is that an  
17 hour and ten minutes?

18 Q Now how -- I don't want to drag this on  
19 much more. The point I'm trying to get at is what was  
20 the purpose of all these conversations with Mr.  
21 Sanchez at this time? If you recall.

22 A I don't recall specifically what the

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1 conversations were about. I can only guess that the  
2 conversations were about what we're discussing the  
3 next steps with respect to what the station and the  
4 district should do in response to initially the letter  
5 from the GGPR attorneys.

6 Then at some point the petition to deny  
7 the station's license renewal was submitted by GGPR to  
8 the FCC so we would have been discussing that.

9 Q Now did you ever actually do anything in  
10 response to these conversations with Mr. Sanchez with  
11 respect to the public inspection file?

12 A Yes. I think as a result of the  
13 assessment of the GGPR list that was with the memo  
14 from their lawyers from early October, as a result of  
15 my conversations with Ernie we created the ownership  
16 reports that were supposed to have been filed in 1993  
17 and 1995.

18 Q Did you attempt to backdate those '93 and  
19 '95 ownership reports to create the impression that  
20 those documents were created at the time?

21 A Certainly no. They are dated December --  
22 I don't remember the exact date -- 1997. Because we

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1 weren't trying to cover up anything.

2 Q So anyone looking at them in January of  
3 '98 or even today would see they were prepared after  
4 August 1, 1997, is that right?

5 A Yes, yes.

6 Q I want to turn briefly to your 1998  
7 declaration that accompanied the opposition to the  
8 petition to deny. That's SFUSD Exhibit No. 4 I  
9 believe. Please turn to page 47 in the initial binder  
10 that we submitted.

11 A Okay, I see that.

12 JUDGE SIPPEL: What page again? Forty?

13 MR. PRICE: Forty-seven of 86.

14 JUDGE SIPPEL: Got it.

15 MR. PRICE: It's the declaration of Mr.  
16 Ramirez.

17 BY MR. PRICE:

18 Q Now, who was it that actually drafted,  
19 typed up this declaration?

20 A I remember Susan Jenkins, an attorney in  
21 Ernie Sanchez's office, drafted this.

22 Q Did she send it for you to review?

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1           A       Yes, I have a recollection that she sent  
2 this to me. I obviously signed off on it on the last  
3 page. I think it's on the last page. Yes.

4           Q       What was your understanding -- I know we  
5 talked about it -- some specific language in there  
6 yesterday. But what was your understating for what  
7 was supposed -- what were you trying to express in  
8 paragraph 11. And if you want to read any portion of  
9 it to yourself to refresh your recollection, please go  
10 ahead.

11          A       Yes, can I have a second?

12                 JUDGE SIPPEL: I'm just going to make  
13 clear to the record here, there are two declarations  
14 in here from Mr. Ramirez, this is the second one. It  
15 was executed on January 17, 1998.

16                 MR. PRICE: That's correct, Your Honor,  
17 that's the one we're focusing on, thank you.

18                 THE WITNESS: Okay.

19                 BY MR. PRICE:

20           Q       Now that you've read -- re-read paragraph  
21 11, can you tell the court again what was your  
22 understanding of what you were trying to convey

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1 through paragraph 11?

2 A It's self-evident that I was trying to  
3 convey that I believe that I may have misunderstood  
4 what was required in completing these particular  
5 sections of the application and I may have made a  
6 mistake.

7 Q Well be specific, as to what portions of  
8 the application you were recognizing as having made a  
9 mistake on.

10 A I can read the sentence. The complete  
11 sentence is "my understanding of what information was  
12 required to be provided and certified was not  
13 complete. I believe I may have misunderstood what was  
14 required in completing section three, questions one,  
15 two and three.

16 For example, I believe at the time I  
17 responded yes to questions three, one A and B. These  
18 only referred to KALW's having filed with the  
19 commission respectively a current annual employment  
20 report and a current annual ownership report. Since  
21 such reports were to be attached to the file with the  
22 license renewal application I believed that yes was

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1 the appropriate response."

2 Q In giving the example of your incorrect  
3 response to question three, 1A and 1B, were you  
4 attempting to hide the fact that you also  
5 misunderstood, or understood at that point that your  
6 responses to questions two and three were also  
7 incorrect?

8 A No. No. When I certified this  
9 declaration I was certifying what was in it, not  
10 what's not in it, If I answered your question right.

11 Q Maybe you could be a little clear. Can  
12 you expand, I'm not quite following?

13 A When I certified that this declaration was  
14 what I believed, it was based on what's in the  
15 declaration. Not what's not in the declaration. If  
16 I understood your question.

17 Q Well I guess what I'm asking is, you gave  
18 an example of the specific mistake you made in  
19 question three, 1A and 1B, correct?

20 A Correct.

21 Q You didn't give a specific example of the  
22 mistake, you didn't specifically identify the mistake

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1 in question two or three, but you indicated above that  
2 you had made some sort of a mistake, right?

3 A Right.

4 Q You weren't trying to hide the fact by not  
5 giving an example of those questions that you had made  
6 that mistake?

7 A I see what you're asking. No. No.  
8 Certainly not.

9 JUDGE SIPPEL: This is all in paragraph  
10 11.

11 MR. PRICE: That's correct.

12 JUDGE SIPPEL: I want to be sure the  
13 record is clear on this.

14 MR. PRICE: That's correct, Your Honor.

15 BY MR. PRICE:

16 Q Now the last thing I want to focus on your  
17 declaration is paragraph 12, and if you could quickly  
18 review it or take your time -- take as much as time as  
19 you need to review, but the question I'm going to ask  
20 you is, what was your understanding at the time of the  
21 purpose of section, of paragraph 12 of your  
22 declaration.

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1 A Okay.

2 Q Now what do you recall or what was your  
3 understanding at the time of the purpose of paragraph  
4 12?

5 A That's self-evident again in this  
6 paragraph, that I was explaining that these are the  
7 steps that I took to understand how I needed to  
8 respond to the renewal application. I even referenced  
9 the additional assistance that Ms. Hecht tried to  
10 provide to me, but that I didn't use that but it's in  
11 there nonetheless.

12 I go on to say that based on the steps  
13 that I took to understand how I needed to respond in  
14 the application that I believe I responded honestly  
15 and accurately to all the questions in section three.

16 Q Even though you had just stated in the  
17 previous paragraph you acknowledge that mistakes were  
18 made, is that correct?

19 A Correct.

20 Q Now after you left the station in January  
21 of 1998, did you stay in touch with any of the folks  
22 at KALW?

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1           A       I'm not sure what you mean by stay in  
2 touch?

3           Q       Did you maintain regular contact with any  
4 individuals you worked with at KALW?

5           A       Nothing regular.     If there were any  
6 contact that I had with someone at the station it was  
7 more coincidence and happenstance that we would both  
8 be at a conference or a meeting at the same time.

9                   There might be an occasion for me to call  
10 Bill Helgeson just to check up on him personally and  
11 find out how he's doing, but that would have been a  
12 personal interest.

13          Q       Now you spoke briefly yesterday regarding  
14 your relationship with Nicole Sawaya, do you recall  
15 that?

16          A       Yes.

17          Q       Just so -- and do you recall -- just so  
18 we're clear, the question before the court today isn't  
19 whether you were a good or bad friend to Ms. Sawaya,  
20 what's important here is that you provide complete  
21 information to the court in our fact finding process.  
22 So I'll ask you again two of the questions that Mr.

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1 Shook asked you yesterday.

2 A Okay.

3 Q Do you recall telling Ms. Sawaya generally  
4 about your experience at KALW?

5 A Sure. I not only told Nicole, I told  
6 everyone who I was friends with that KALW is a tough  
7 place, that there are some problems here but I am  
8 working through them.

9 I'm not a complainer so I wouldn't have  
10 shared everything with everyone except to say that  
11 look, it's tough up here, I'm doing my best, wish me  
12 luck, have a nice day, that kind of thing.

13 Q Did you give Nicole Sawaya any specific  
14 details about why you left the station?

15 A Again, like with anyone who I would have  
16 talked to about leaving the station, nothing specific.  
17 I would have said look, it was generally -- that was  
18 a tough 18 months there, there were some challenges.  
19 That kind of broad, broad stroke. There wouldn't have  
20 been any need to get into the specific issues with  
21 anyone.

22 Q You left the station in January of '98,

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1 correct?

2 A Correct.

3 Q You also testified yesterday that in some  
4 point in 2001, or late 2000, you got a phone call from  
5 Mr. Helgeson at the station, indicating that the  
6 station was considering Ms. Sawaya for the position of  
7 General Manager? Correct?

8 A Correct.

9 Q Now at the time Ms. Sawaya was being  
10 considered for the General Manager position, did you  
11 know whether the license renewal challenge was still  
12 pending?

13 A No I didn't.

14 Q Did you know whether the GGPR group was  
15 still active?

16 A No I didn't.

17 Q What was it about Ms. Sawaya that made you  
18 think she'd be a good fit as General Manager for the  
19 station?

20 A I know that Nicole -- I knew that Nicole  
21 had a been a member, or had lived in Northern  
22 California for a long time, so she had established

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1 roots there. She'd worked in Northern California  
2 public radio for quite a long time.

3 She'd been a station manager there, she'd  
4 been a program director there, she'd been a  
5 reporter/producer in the area. She had the kind of  
6 background in Northern California that I didn't bring  
7 to the station with me coming from Southern  
8 California, when I did in 1996.

9 Q Now, yesterday I believe there was some  
10 confusion, you had some confusion, the court had some  
11 confusion, certainly I did and probably Mr. Shook did,  
12 relating to your -- some questions that were being  
13 asked about some discovery responses that were made by  
14 SFUSD last fall and I just want to briefly clarify  
15 what you were trying to convey and I'll try do it in  
16 four short questions.

17 Were you asked at some point in the fall  
18 of 2004 to review documents related to this case?

19 A Yes.

20 Q Did you do that on more than one occasion?

21 A Yes.

22 Q Tell me how many times you did it or in

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1        what context, just briefly.

2            A        I can remember at least three occasions.  
3        One was in personal attendance at a meeting of the  
4        SFUSD attorney's office to review documents. Then two  
5        other occasions reviewing documents via e-mail.

6            Q        Do you recall what you were reviewing them  
7        for? That is, were you asked to identify documents to  
8        see whether you had seen them before, to describe  
9        them? Do you recall what you were being asked to do  
10       in your review of those documents?

11           A        The two ways you just put in your  
12       question, I don't know if I would have put it that  
13       way, but I can remember instructions to review the  
14       documents in that fashion. That's generally what I  
15       remember.

16           Q        Other than the review of documents and  
17       your discussions with Counsel, did you play any role  
18       in drafting these draft responses, in drafting these  
19       discovery responses?

20           A        Not that I remember.

21           Q        These were responses drafted by attorneys.  
22       Correct?

1           A       That's what I remember. I do remember  
2 reviewing and some documents, I just don't remember  
3 today if this is the same document.

4                   Just -- I think the confusion yesterday  
5 was that when Mr. Shook asked me to read a section  
6 from my deposition, what I was remembering at that  
7 time in November 2004 is Mr. Shook showing me a  
8 document that I do remember reviewing and then  
9 providing my feedback to the SFUSD attorneys.

10                   My confusion yesterday was I couldn't tell  
11 if the same document, or if the document I was looking  
12 at yesterday was the same document.

13           Q       Do you have an understanding today as to  
14 whether the document you were being asked questions  
15 about in the deposition testimony that Mr. Shook was  
16 pointing you to were admission response -- admissions  
17 request as opposed to the document requests that you  
18 looked at yesterday?

19           A       Okay, yes. I'm sorry I'm getting confused  
20 again because you're using terms that I'm not familiar  
21 with.

22           Q       Anyway, did you play any role in drafting

1 any portion of the document that you're looking at?  
2 This is what we talked about yesterday which was  
3 Enforcement Bureau Exhibit 43?

4 A I don't remember helping write this.

5 Q Now yesterday Mr. Shook walked you through  
6 a number of programming changes you made at the  
7 station, do you recall that exercise?

8 A Yes I do.

9 Q Now can you please turn to SFUSD Exhibit  
10 3 in the full binder not the abbreviated one with your  
11 testimony that I gave you?

12 A Okay.

13 Q Can you turn to page 97 which is the, I  
14 believe it is the cover page of the  
15 October/November/December '97 program guide?

16 A Okay, I see that.

17 Q Now can you briefly identify for me some  
18 of the programs in there that you believe played a  
19 significant role, not just any role, but the most  
20 significant role in demonstrating KALW's  
21 responsiveness to serving the needs and interest of  
22 the Bay Area Community? And just describe the

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1 programs briefly.

2 A Well, let me scan the programs just  
3 briefly. I'll just start -- 6:00 Monday morning  
4 there's Morning Edition with Bob Edwards. It doesn't  
5 show it here in the schedule, but during that program  
6 we aired important traffic reports to let the  
7 community know how, what the commute is like on the  
8 bridges there in the San Francisco Bay Area, which are  
9 vital commuter links. We were providing weather  
10 information. We were providing the school lunch menu.

11 In total, the Morning Edition programming  
12 was high quality news programming that listeners tell  
13 us they find highly credible, trustworthy. As I was  
14 explaining yesterday, part of creating the station's  
15 personality or branding in the Bay Area was as  
16 important to the economic viability of the station  
17 because to the degree that we had other public radio  
18 stations in the market that were very in depth news  
19 and information or progressive community oriented.

20 The economic viability of the station  
21 needed to be based on a different approach. The  
22 approach that I took at the station was to focus on

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1 news and information and fine arts. So to that  
2 degree, a program like Fresh Air would have spoke  
3 directly to the interest of the community that we were  
4 trying to serve because Fresh Air is a fine arts, arts  
5 culture, public affairs and interview program.

6 The next hour of the day at 10:00 was Open  
7 Air where we focused on local arts and culture. Again  
8 we were addressing the economic viability of the  
9 station through our attempt to serve a fine arts  
10 community again versus a news and information or  
11 progressive or jazz audience.

12 MR. SHOOK: Your Honor, please the court,  
13 could you have Mr. Ramirez identify what document he's  
14 looking at right now because Mr. Price referred to  
15 page 97, that simply is the cover. I can see and hear  
16 that Mr. Ramirez is looking at something else. Just  
17 to have him identify what it is he's reading from.

18 BY MR. PRICE:

19 Q If you're reading or referring to a  
20 particular point in the document into the record that  
21 would be helpful.

22 A Sure. I'm looking at page 108 of 120.

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1 JUDGE SIPPEL: 108 of 120. This is again  
2 from SFUSD Exhibit 3, right?

3 MR. PRICE: That's correct, Your Honor.

4 THE WITNESS: Shall I continue?

5 JUDGE SIPPEL: Yes.

6 BY MR. PRICE:

7 Q Sure.

8 A Going on through the schedule, again, with  
9 our imperative of providing a news and information and  
10 fine arts service, the next program we have on the  
11 schedule as BBC News Desk.

12 BBC News Programming would have been a  
13 part of our striving to provide a balanced approach to  
14 international, national, regional and local news  
15 certainly. News from the BBC would have addressed  
16 international news. I could go --

17 Q Maybe it would be helpful just to identify  
18 a couple of the locally produced programs.

19 A Certainly.

20 Q Spread throughout the week, and just three  
21 or four would be more than sufficient.

22 A Certainly. Well looking at Sunday there's

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1 the program that I worked with Marty Nemko to expand  
2 to -- I know this is contrary -- expand to a more  
3 focused look at workplace issues on Sunday mornings at  
4 11:00. Moving to Monday, there's City Visions airing  
5 at 7:30 with Rose Levonson. That program covered  
6 important events in politics, education, the city's  
7 economy.

8 Moving to Wednesday at 7:30 Your Legal  
9 Rights with Chuck Finney would have -- that's a call  
10 in program -- that would have helped listeners through  
11 legal questions on, that they would have.

12 So those are examples of programs that the  
13 station aired that not only addressed our news and  
14 information imperative but also addressed the fine  
15 arts approach that we again chose to take in order to  
16 be distinct from the other public radio stations in  
17 town. Again to address our economic viability there  
18 in San Francisco.

19 Q Thank you. Now yesterday Mr. Shook asked  
20 you a question about whether any of your programming  
21 changes "affected" certain members of GGPR and he  
22 asked you about Mr. Lopez, Mr. Evans, Ms. Kennedy, Ms.

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1 Hecht, perhaps others. Do you recall that questions?

2 A Yes I do.

3 Q What did you understand Mr. Shook to mean  
4 by whether the individuals were affected by the  
5 program changes?

6 A The way that I understood the question was  
7 one, was Jason Lopez on the air or was he the host of  
8 the program that might have been taken off the air  
9 because I chose to air a new program or take a program  
10 that he was the host of or produced off the air, and  
11 so when I responded no to each of the names that Mr.  
12 Shook mentioned, that was how I responded to that  
13 question.

14 Q Now would your answer differ if I asked  
15 you what, how did you believe your programming changes  
16 may have impacted those members of GGPR?

17 A Yes I would have had a different answer.

18 Q What would that answer have been?

19 A For example, a number of those people did  
20 not like the fact that I was forming my programming  
21 decisions with research. That upset them, they didn't  
22 like using research.

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1                   They disagreed with the research  
2 methodology that I was using, but it was entirely  
3 fair, the research that I was using because our  
4 audience was measured, or being measured in the same  
5 way that the other public radio stations in the market  
6 audience, the other public radio station in the  
7 markets audience was being measured, so it was a fair  
8 comparison.

9                   JUDGE SIPPEL: Can I just interject  
10 something here? Can you explain to me why would they  
11 object, what was, why would they object? What reason?

12                  THE WITNESS: Sure, that's a good  
13 question. There's a number of people in the public  
14 radio industry who disagree with public radio  
15 programmers using ARBITRON based audience testing to  
16 determine what the stations listenership is, because  
17 those same estimates are used by commercial radio  
18 stations.

19                  JUDGE SIPPEL: I see, so they -- there's  
20 a school of thought that thinks -- in your experience  
21 -- there's a school of thought that thinks that you  
22 shouldn't use the same standards that are used to

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